asked to say that that inventory is not complete inasmuch as the Plaintiff alleges that when he left the shop on the 19th February, there were many other goods there which are not included in the Inventory. He has made out a list to the best of his recollection but he admits that it is only a rough estimate and it must be borne in mind that there were 4 days 19th—23rd during which he was absent from the shop and his manager or coolies none of whom were available as witnesses may have removed or sold goods without his knowledge. The onus is upon him to prove that those extra goods were there and I do not see how he can discharge that onus. Furthermore I am not prepared to hold that the bailiff made out a false inventory. To do so would have been to entail a grave risk inasmuch as the Plaintiff might have demanded that it be checked at any time between the seizure and the sale in which case the omission of such an item as 20 bags of rice must have been discovered. The view which I am inclined to take is this—that the Defendant overlooking the deposit made at the commencement of the tenancy or in the mistaken belief that it should not be treated as rent, thought he was entitled to distrain for 2 months' rent; that the inventory represents substantially what was found in the shop; that the values stated against each item are rough estimates given by the Defendant and that the Defendant made those values work out at $98 so that being under $100 there would be no need to employ an auctioneer. (The bailiff must I think be mistaken in his recollection that the Plaintiff gave these estimates as it is manifestly absurd for example that he would have valued 175 tins of coffee however small at $1.70 or less than one cent per tin.

I accordingly hold that the Plaintiff has not proved affirmatively that any articles were seized other than those on the list but the values set against each article constitute a gross undervaluation. The fact that the goods fetched nearly twice as much at a forced sale such as this supports that view. I accordingly take the valuation made by the Plaintiff as my basis. The figures given for the grocery goods seem not unreasonable but there is unfortunately no evidence available as to the size of the tins pots, etc. The value put on the furniture seems too high. Making allowance for under the circumstances not unnatural exaggeration I reduce his valuation from $857.66 to $700.

There will be judgment for the Plaintiff for $700 less rent due and 15.45 charges (agreed by counsel) and costs.

The Plaintiff is entitled to return of the $55 as Defendant has received $80 under the seizure.

Stay on the usual terms.

No stay as to costs but solicitor for respondent to give his personal undertaking to refund.

Judgment accordingly.

Solicitors for Plaintiff—*Rogers & Son.*

Solicitors for Defendant—*Zehnder Bros.*

F. M. S.

[ORIGINAL CRIMINAL JURISDICTION]

PUBLIC PROSECUTOR

vs.

HARNAM SINGH

[SELANGOR CRIMINAL TRIAL No. 37 of 1932]

Prosecution for perjury—Penal Code, Section 188—Proof of alleged false words used in a civil action—Admissibility of Judge's notes.

At the trial of a civil action the Judge is not bound by law to record the evidence given, but in practice he invariably does so. When so recorded the notes are admissible at a subsequent trial of one of the witnesses for the offence of giving false evidence at the trial of the civil action before that Judge.

Decision in *Public Prosecutor* v. *Mit Singh*, 3 F.M.S. L.R. 2, doubted.

R. C. Cussen, Deputy Legal Adviser, for the Public Prosecutor.

S. M. Sharma for the Accused.

The facts appear sufficiently from the Judgment.

THORNE, AG. C.J.—The accused was charged before me with the offence of giving false evidence in the course of the hearing of Civil Suit No. 21/32 in the Supreme Court, Kuala Lumpur, on the 7th day of April, 1932. The alleged false statement was as follows:—

> "I did not go to see Mr. Benjamin in his office. I did not tell Mr. Benjamin I knew nothing about the $1,800. I said nothing to him about this case. I again say that I did not go and see Mr. Benjamin about this case."

I held the accused guilty and convicted him. I imposed a sentence of 12 months rigorous imprisonment and a fine of $500, in default of payment of which a further 12 months rigorous imprisonment.

The prosecution proved beyond all doubt that the accused was called as a witness for the plaintiff in Civil Suit No. 21 32 which was heard before Mudie, J. at the Supreme Court, Kuala Lumpur, on the 7th day of April, 1932. There were called for the prosecution Messrs. Bostock Hill and Benjamin, who were the counsel engaged for the Plaintiff and the defendant respectively in Civil Suit No. 21/32, Mr. Sant Singh the

interpreter in that case, and Haji Mohamed bin Ali the defendant. These witnesses proved that the accused was affirmed, that he stated in evidence the words detailed in the charge, and that these statements were untrue in fact, and were made by the accused deliberately well knowing that these statements were false.

It is to be observed that the accused gave evidence in Punjabi, which is his mother tongue, and that Mr. Benjamin also speaks that language. It is seldom that the Court has the benefit of the evidence of witnesses of the standard of integrity and standing of those called for the prosecution in this case, in proof of the evidence given in a trial in these Courts.

In addition to the oral testimony, the prosecution called Mr. Joseph Ralph, the private secretary to Mudie, J., who produced a copy of the notes taken by that learned Judge at the trial of Civil Suit No. 21/32. I shall have occasion to refer to this matter later, but notwithstanding an objection taken on the part of the defence, I admitted in evidence a copy of the Judge's notes of the evidence of the accused in that case. These notes, in my view, clearly corroborate the oral testimony to which I have referred.

The accused gave evidence in his own defence, in the course of which he admitted that Mr. Benjamin asked him at the trial if he had been to Mr. Benjamin's office at any time about the case between Sucha Singh and Haji Mohamed, and that in answer he had denied ever having been to Mr. Benjamin's office. He stated the reason for this denial, but I did not find that reason at all convincing.

Upon the question of the $1,800, the accused in cross-examination said:—

> "Before the hearing (*i.e.* of the Civil Suit), Mr. Benjamin had asked me questions as to what I knew about the claim for $1,800 in Suit No. 21/32. He so asked me in his office. I told him that I had arranged a sale of planks for $85 by Sucha Singh to Haji Mohamed. That is all I told him; I was asked that only and no more. Mr. Benjamin did not ask about the $1,800. I did not tell him I knew nothing about the $1,800. I did not know that he was asking questions about the $1,800 claim."

This evidence too was unconvincing, and I have no hesitation in saying that I believe the evidence which Mr. Benjamin gave, and I do not believe the accused. This being so, I found the accused guilty and convicted him.

Upon the question of sentence, the offence of giving false evidence is extremely rife in this country. To my mind it is necessary that punishment should be deterrent. The only object of the accused in giving this false evidence can have been to endeavour to persuade the learned trial Judge that the claim of the plaintiff in Civil Suit No. 21/32 was a *bona fide* claim. This attempt failed, but the intention of the accused was clearly to assist the plaintiff to succeed. It seems to me that in the case of a Punjabi moneylender, a sentence of 12 months rigorous imprisonment and a fine, with a further term of imprisonment in default of payment of the fine, was a very appropriate sentence.

When the copy of the Judge's notes of the evidence given by the accused in the Civil Suit was tendered for the prosecution, Mr. Sharma for the defence objected that the Judge's note of the evidence was inadmissible. He relied upon the decision of Innes, J. in the case of *Public Prosecutor* v. *Mit Singh*, 3 F.M.S.L.R. 2. The report is very succinct, but it would appear that Innes, J. followed a previous decision of Sercombe Smith, Ag. C.J. in Selangor Criminal Case No. 41/1911, unreported, and held that the Judge's notes taken in a civil suit were not admissible for the purpose of proving at a criminal trial for giving false evidence the use by the accused during the civil suit of the words alleged to be false. He compared the provisions of the Criminal Procedure and the Civil Procedure Codes, and held that in the case of a criminal trial under section 91 of the Evidence Ordinance, the Judge's notes became the sole evidence admissible to prove the use of the words in question.

Mr. Sharma relied upon section 183 of the Civil Procedure Code, which he compared with Section 271 of the Criminal Procedure Code, and claimed that the duty of the Court was identical at the trial of both civil and criminal cases.

This is not the case, because under section 3 of the Code of Civil Procedure, section 183 does not apply to the Supreme Court in the exercise of its original civil jurisdiction. So far as I am aware, it is not incumbent on the trial Judge to record the evidence given before him at the hearing of a civil suit.

Mr. Cussen for the prosecution relied on the case of *Chow Eng* v. *Public Prosecutor*, 4 F.M.S.L.R. 287 where it is reported that Reay, J. decided that in a criminal trial the notes made by a trial Judge were a record of the acts of a public judicial officer within the meaning of section 74 of the Evidence Ordinance, and that

a certified copy is, therefore, admissible in any case where the original would be admissible. He also relied upon the case of *Public Prosecutor* v. *Si Cheng Chee*, 6 F.M.S.L.R. 187, in which Acton, J. held that a certified copy of the Judge's notes of evidence is admissible in proof of the original. This again was a case of evidence alleged to be false, having been given in the course of a criminal trial.

In this conflict of rulings upon the question of admissibility of the notes of the trial Judge, I found myself called upon to decide which view is to be preferred. The judgment of Mr. Justice Innes does not appear to have been written, and I much doubt whether the report, which I have described as succinct, does justice to that learned Judge. If the report means that the learned Judge held that the notes of a witness's evidence recorded by a trial Judge in a civil suit were insufficient to establish the exact words used by the witness in giving evidence, then I agree, for this reason, that on a trial for giving false evidence it is necessary to prove the actual words used by the accused when he gave the evidence alleged by the prosecution to be false. Now, the note taken by the trial Judge is generally only in the form of a narrative, and purports to record only the substance, or the effect, of the evidence which the witness gives, and it does not, speaking generally, purport to record verbatim, the words which the witness used. It may be however, that the trial Judge may see proper to record some particular question and answer, in which case the note will prove the actual words used by the witness.

The report too appears to record that the learned Judge held that in the case of a trial of a criminal character, the note taken by the trial Judge would be the sole evidence admissible to prove that a witness who gave evidence at the trial had used the words in question. I do not think that the learned Judge can have been recorded correctly. The report makes reference to section 91 of the Evidence Ordinance as the foundation for that ruling, but in my humble opinion, there must be some mistake about this, because in my view section 91 of the Evidence Ordinance has no application.

I think that the report must be wrong too in regarding the learned Judge as having held that the notes of the trial Judge would be the sole evidence of the words used by the witness in case of a subsequent prosecution for giving false evidence. Section 271 of the Criminal Procedure Code requires that in all criminal cases tried before the Court of a Judge, such Judge shall take down in writing in English a note of the evidence adduced. In practice no Judge ever attempts the impossible task of making a verbatim record of the actual words used by every witness. This section read with the other provisions of the Criminal Procedure Code has always been construed as imposing a duty on the Judge to record the evidence given in the form of a narrative. The result is that the evidence recorded by a trial Judge in a criminal trial does not pretend to record the actual words used by a witness in giving his evidence, but of course, upon occasion the Judge's notes may record the actual words used.

I felt, therefore, that the judgment in the case of *Public Prosecutor* v. *Mit Singh*, 3 F.M.S. L.R. 2 as reported, was not reliable, and that I could not follow it with safety.

At the trial of a civil suit the Judge is not bound by law to record the evidence given, but in practice he invariably does so. If the Judge records evidence thus given, in my view, the evidence of a witness so recorded is admissible in case of the subsequent trial of that witness for the offence of giving false evidence on the trial before that Judge, to prove the effect of the evidence which the witness is alleged to have given. If the Judge records the language of the witness verbatim, then the notes may be used to establish the words which the witness actually used. But, to my mind, the notes are admissible, and when admitted, the question will of course arise of the evidentiary value of those notes. Much must depend upon the facts of each case, the form and character of the notes, and the nature of the evidence alleged to have been given by the witness.

The objection taken in this case was that the Judge's notes were not admissible, not that a certified copy of the note was inadmissible. I understood Mr. Sharma to take the line as I think was proper, that if the original notes were admissible there could be no practical objection of any substance to putting in an accurate copy.

In my view, it is a convenient practice to produce a certified copy of the Judge's notes. It is in practice undesirable that the Judge's notebook should itself be put in evidence, but in this case I was not called upon to decide the question, and so far as I am concerned, that point is left undetermined. Having admitted this evidence, I should add that I merely regarded it as of a corroborative character, since it recorded that the witness gave evidence in the sense of the actual words proved by the witnesses who swore to those words having been used by the appellant.

(*Note*:—There was an appeal against this conviction. The appeal was heard on the 3rd October, 1932, before Prichard, J., Gerahty, J., and McFall, J., and was dismissed.)

STRAITS SETTLEMENTS.

(Privy Council)

Present: Lord Atkin, Lord Russell of Killowen and Lord Macmillan

February 3, 1933.

SHAIK SAHIED bin ABDULLAH (Defendant) BAJERAI - - Appellant

vs.

S. S. T. SOCKALINGAM CHETTIAR (Plaintiff) - Respondent

(Singapore Suit No. 1448 of 1930. Appeal No. 16 of 1931. Privy Council Appeal No. 57 of 1932).

Money and Moneylending—loan transaction—mercantile law—Moneylenders Acts (1900-1927)—*whether applicable in the Colony—Ordinance No.*111 (*Civil Law*) *S.* 5.

The English Moneylenders Acts, 1900 to 1927, form no part of the mercantile law. They contain saving clauses which make it plain that borrowing in the course of an ordinary commercial transaction is excluded from their scope. These acts are therefore not applicable to the Straits Settlements.

Seng Djit Hin v. *Nagurdas Purshotamdas & Co.* (1923) A.C. 444 referred to.

Appeal by special leave from a judgment of the Court of Appeal in Singapore (Murison, C. J., and Thorne and Terrell, JJ.) dated the 30th of November 1931 dismissing with costs an appeal of the appellant against a judgment and order of Sproule, Ag. C. J., dated the 7th of August 1931.

The respondent issued a writ of summons on the 29th October 1930 against the appellant claiming the payment of $14.000—the balance of principal due on a promissory note for $15,000 dated the 25th January 1930 and of $3200 on a cheque drawn by appellant dated the 8th September 1930 and payable to the Respondent or bearer and dishonoured on presentation. By his defence dated the 1st December 1930 the appellant pleaded *inter alia* the Moneylenders Acts, 1900 to 1927, and alleged that the respondent at material times carried on business of a moneylender and that the promissory note and cheque had been given for and in respect of moneys lent by the respondent to the appellant in breach of the requirements of section 6 of the Moneylenders Act, 1927.

Section 6 of the Moneylenders Act, 1927 provides—

"(1) No contract for the repayment by a borrower of money lent to him.....by a moneylender after the commencement of this Act or for the payment by him of interest on money so lent and no security given by the borrower..... in respect of any such contract shall be enforceable unless a note or memorandum in writing of the contract be made and signed personally by the borrower and unless a copy thereof be delivered or sent to the borrower within seven days of the making of the contract; and no such contract or security shall be enforceable if it is proved that the note or memorandum aforesaid was not signed by the borrower before the money was lent or before the security was given as the case may be.

"(2) The note or memorandum aforesaid shall contain all the terms of the contract, and in particular shall show the date on which the loan is made, the amount of the principal of the loan, and either the interest charged on the loan expressed in terms of a rate per cent. per annum or the rate per cent. per annum represented by the interest charged as calculated in accordance with the provisions of the First Schedule to the Act."

By his Reply dated and delivered on the 22nd June 1931 the respondent joined issue on the defence, denied that the Moneylenders Acts, 1900 to 1927, were law in the Straits Settlements and alternatively alleged that he the respondent was under no legal obligation to carry out Section 6 of the Moneylenders Act, 1927 because the Government of the Colony had not provided any facilities for registration whereby that section might be carried into effect.

The case was tried on the 4th and 5th August 1931 before Sproule, Ag. C. J., who found in favour of the respondent on the facts and on the 7th August 1931, delivered judgment and held that the facts of the case did not allow of the application of the Moneylenders Act, 1927 in the Colony of the Straits Settlements. Judgment was accordingly entered for the respondent with costs.

The Appellant appealed to the Court of Appeal against the judgment of Sproule, Ag. C. J. and the appeal, which was confined to the question of applicability of the Moneylenders Acts in the Strait Settlements, came on for hearing on the 25th November 1931 before Murison, C. J. and Terrell and Thorne, JJ. On the 7th December 1931 the Judgment of the Court was delivered, when the appeal was dismissed with costs.

The appellant preferred an appeal to the Privy Council against the judgment of the Court of Appeal and contended *inter alia* that—

(1) The Moneylenders Acts 1900—1927 were part of the law to be administered in the case.

(2) Section 6 of the Moneylenders Act, 1927 was part of the law to be administered in the case.

(3) There had been no compliance with section 6 of the 1927 Act.

(4) The question which had arisen in the case was a question with respect to mercantile law generally.

D. N. Pritt, K. C. and *James Wylie*, for the Appellant.

Sir Stafford Cripps, K. C. and *H. C. Marks*, for the Respondent.

Cur. ad. Vult.

THE JUDICIAL COMMITTEE (Lord Atkin, Lord Russell of Killowen, Lord Macmillan) dismissed the appeal with costs.

The Judgment of the Board was delivered by Lord Atkin.

Lord Atkin—This is an appeal from the Supreme Court of the Straits Settlements, where the Court of Appeal dismissed an appeal from the Acting Chief Justice, who gave judgment for the plaintiff. The

action was brought by the plaintiff, a professional moneylender, against the defendant, a landowner, upon a promissory note payable on demand and a post-dated cheque given in respect of money-lending transactions.

The only defence material to this appeal is that there was no memorandum in writing of the contract signed by the borrower in pursuance of Section 6 of the English Moneylenders Act. The question is whether the provisions of Section 6 apply to this transaction in Singapore.

The suggestion is that the section is made applicable by Section 5 (17) of the Civil Law Ordinance No. 111 of 1920 of the Straits Settlements. That section provides:

> " all questions or issues which arise or which have to be decided in the Colony with respect to the law of partnerships, corporations, banks and banking, principals and agents, carriers by land and sea, marine insurance, average, life and fire insurance, and with respect to mercantile law generally, the law to be administered shall be the same as would be administered in England in the like case at the corresponding period if such question in issue had arisen or had to be decided in England unless in any case other provision is or shall be made by statute."

The argument is that the question in this case is whether the defendant is liable on a negotiable instrument, that such question is one "with respect to" mercantile law, which includes the law of negotiable instruments, and that in applying English law to such a case in England the Courts would have had to apply the Moneylenders Act. The Courts in Singapore have rejected this contention, and their Lordships agree with this decision, but for reasons which do not altogether conform to those given in the Colony.

It is to be noted that the section does not purport to apply in every mercantile transaction. It applies only where a question or issue has to be determined with respect to mercantile law. The general object no doubt is to secure uniformity of mercantile law in Singapore and the United Kingdom, though of course, whatever the object, full effect must be given to the plain meaning of the words used. It is obvious that there are mercantile transactions in which no question with respect to mercantile law arises; just as there are non-mercantile transactions in which such a question does arise.

On a claim arising out of a sale of goods, the only question may be whether the plaintiff ever entered into an alleged written contract. If the sole question is whether his signature is a forgery, no question as to mercantile law seems to arise; if it is said he had given express or implied authority to someone "with respect to" the law of principal and agent or mercantile law generally may well arise.

Similarly, an allegation that an assent to a mercantile contract was obtained by duress, or by fraud, would normally not be a question with respect to mercantile law. So if a question of insurable interest arose on a claim on a fire policy, the law as to what constituted an insurable interest would be determined by the law of England; but the application of the principles in Singapore might depend upon the law of landlord and tenant, bills of sale, or the administration of deceased persons' estates none of which in themselves form part of the mercantile law.

It might, on the other hand, depend upon questions relating to the law of contracts of sale or contracts of carriage by sea or land, which would bring into application the statute. Similarly, in an ordinary action of fraud, or in a criminal prosecution, in neither case arising out of mercantile transaction, questions of property might arise which could only be determined by recourse to mercantile law. Now it seems beyond dispute that the English Moneylenders Acts, 1900 to 1927, form no part of the mercantile law. They contain saving clauses which make it plain that borrowing of money in the course of ordinary commercial transactions is excluded from their scope.

If such a case as this arose in England between a professional moneylender and a landowner it would not, I think, occur to anyone that an issue raised under any of the sections of the Moneylenders Acts related to mercantile law. Indeed, it seemed to be admitted in argument that such a question only arose where the suit was on a negotiable instrument. So that if the moneylender took a mortgage with a covenant or promissory note, the same defence that he was unregistered would arise "with respect to mercantile law" in the second case but not in the former. The contention is untenable.

On this point the learned Judges with respect have followed too closely the decision of this Board in *Seng Djit Hin* v. *Nagurdas Purshotumdas and Co.* (1923), A.C. 444. In that case the claim arose on a contract for the sale of goods, and the question to be decided was whether the seller of goods c.i.f. was excused from delivery because his goods had been requisitioned by the Government. He pleaded the provisions of the Defence of the Realm regulations. The Board decided that such a question arose with respect to mercantile law. Temporarily they formed part of the provisions of the law relating to the sale of goods, clearly a branch of mercantile law. Their Lordships find nothing in the case which appears inconsistent with what has been said above. The defendant's plea therefore fails *in limine* on the ground that no question had to be decided with respect to mercantile law.

But their Lordships think it desirable to add a few words as to the reason which prevailed with all the learned Judges below, that in any event the Moneylenders Acts were not such legislation as it was ever contemplated should be extended by the ordinance to the Colony. As the Acting Chief Justice said, "They are a very special municipal series of legislative provisions creating procedure and machinery and setting up restrictions and sanctions which are quite impossible

of application in our case."

No doubt all legislation is in one sense municipal; but for the purpose of the ordinance there seems to be a clear distinction between legislation which has the effect of modifying the general principles of any branch of mercantile law, and legislation which is intended to regulate the exercise in England only of particular activities by providing for registration, licences, procedure, and penalties which can only be carried into effect in England itself. Such law is not capable of extension to the Colony, and in their Lordships' opinion for that reason is not covered by the ordinance.

It is unnecessary to rehearse the various provisions in the Moneylenders Acts which indicate that the Act is intended solely for the English regulation of the activities of moneylenders in England, and would be unsuitable and impossible of the performance in the East. In no event could it be included in the law to be administered in pursuance of the ordinance.

Counsel for the appellant preferred to meet this construction of the statute on narrower ground. The Acts, he said, are to be applied in Singapore; but *lex non cogit ad impossibilia*, and if some of the provisions are found there to be impossible of performance, e.g., registration, then there will be no duty to obey them. But such parts as are possible, as the provisions in Section 6, are incorporated into the law of Singapore. The whole Act is shipped to Singapore, but parts cannot be landed and are dumped in the harbour; the rest is imported. Their Lordships cannot accept this contention. The Act must be judged as a whole, and if it is found to be restricted to regulation of activities in England and not to be capable of general application, it is not within the scope of the ordinance at all. To take one or two sections of such an Act, divorced from their context, is to apply a new law, which is not the law of England, and so abstracted might never have been introduced into England at all.

The learned Judges, in arriving at their conclusions on this point, appear to have fortified their opinion by reference to the words used by Lord Dunedin in giving the judgment of the Board in the case above cited, that the Defence of the Realm Act and the Court Emergency Powers Act could be pleaded if the facts allowed of their application. In that case the attention of the Judicial Committee was not directed to the question raised here, which did not arise. The words used only mean if the facts in the particular case make the particular provision applicable; in that case if the performance was in fact prevented by requisition.

In the present case, therefore, their Lordships are unable to rely upon a previous decision of their own in support of the view that they have expressed. But though unfortified by authority, they entertain no doubt that the result is as stated They will therefore humbly advise His Majesty that this appeal should be dismissed. The appellant must pay the costs of the appeal.

Appeal dismissed.

Solicitors for the Appellant—*Tamplin, Joseph, Ponsonby, Ryde & Flux*, London; *Chan & Eber*, Singapore. Solicitors for the Respondent—*Speechly Mumford & Craig*, London; *Donaldson & Burkinshaw*, Singapore.

(Appellate Civil Jurisdiction)

(Murison, C. J., Burton & Whitley, JJ.)

February 21, 1933

RE MOHAMED TALHAH bin MOHAMED ARIFF (A Lunatic)

(Penang Civil Appeal No. 3 of 1933)

Practice—Lunacy—selection and appointment of committee—delegation of Judge's power to Registrar —Civil Procedure Code, Ss. 815 & 1008.

The Judge has no power under Section 815 of the Civil Procedure Code to direct an enquiry to be held by the Registrar as to who is a fit and proper person to be appointed Committee of a lunatic. An order of a Judge directing such an enquiry will vitiate all subsequent proceedings.

APPEAL from an order of Prichard, J. dated the 10th October 1932.

Proceedings were started by O.S. No. 127/32, in which Md. Hashim a brother of the lunatic was applicant, for an inquiry to be held to decide whether Md. Talhah was of unsound mind and incapable of managing himself or his own affairs and if so for the appointment of the applicant to be committee of the person and estate of Md. Talhah.

The inquiry was directed to be held and was held before the Judge in Chambers on the 10th October 1932 when the evidence of two doctors was heard and the Judge found that Md. Talhah was of unsound mind and incapable of managing his own affairs.

At this inquiry both the applicant and Md. Talhah's wife Karima were represented by Solicitors the latter *in forma pauperis*. On Karima's statement that she opposed the appointment of the applicant as committee a reference was, on the suggestion of the applicant, directed to the Registrar to report as to who was a proper person to be appointed committee. The order was in the following terms:—

> "The Court doth declare the lunatic abovenamed to be of unsound mind and incapable of managing his own affairs. And it is ordered that a reference be made to the Registrar of this Court or his Deputy to enquire and report as to who is a fit and proper person to be appointed Committee of the person and estate of the said Lunatic".

Md. Hashim took out a Summons to proceed before the Registrar and an inquiry was held before the Registrar at which evidence was called both for Md. Hashim and for Karima and the Registrar made a certificate on the 10th November 1932 in which he reported that he had held an inquiry and as a result found "that Karima binti Tuan Chik is the proper person to be appointed committee."

A summons was taken out before the Judge in Chambers to confirm this certificate and for the appointment of Karima as committee.